

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

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MAX RAZO,

Plaintiff,

Case No. 2:15-cv-01341-JCM-PAL

## ORDER

(Mot Strike – ECF No. 49)

ALL METAL MAINTENANCE STANDS, et  
al.,

## Defendants.

13 Before the court is what was called “Defendants’ Motion to Strike Plaintiff’s Sur-Reply in  
14 Opposition to Defendants’ Motion to Dismiss (ECF No. 48)” (ECF No. 49). Plaintiff did not file  
15 a sur-reply to the motion to dismiss. Rather, the motion to strike is actually requesting to strike  
16 Plaintiff’s sur-reply to the motion to extend discovery. The court has reviewed the motion and  
17 Plaintiff’s Opposition (ECF No. 50).

18 Defendants' motion states that Plaintiff did not follow the Local Rules in either filing, or  
19 asking permission to file, a surreply to the motion to extend discovery. Defendants request that  
20 Plaintiff's surreply be stricken.

21 Plaintiff opposes the motion stating that he was unaware of the Local Rule which required  
22 special permission to file a surreply. He further argues that he was not reiterating arguments  
23 already made in his opposition, but rather, was responding to new factual allegations and issues  
24 raised by Defendant in its reply. He seeks leave within his opposition to file his sur-reply.

LR 7-2(b) states, in pertinent part, that:

The deadline to file and serve any points and authorities in response to the motion is 14 days after service of the motion. The deadline to file and serve any reply in support of the motion is seven days after service of the response. **Surreplies are not permitted without**

1                   **leave of court; motions for leave to file a surreply are**  
2                   **discouraged.”**

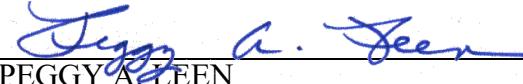
3 (emphasis added).

4                   On July 21, 2016, Plaintiff filed a Response to the Motion to Extend Discovery (ECF  
5 No. 45). Defendant filed a reply (ECF N0 46) August 1, 2016. The court entered an Order (ECF  
6 No 47) granting a 60-day extension, indicating it would be the final extension allowed. Ten days  
7 later Plaintiff filed his surreply (ECF No. 48). This was improper. The Federal Rules of Civil  
8 Procedure and Local Rules of Practice allow parties to file a motion, response and reply. Surreplies  
9 are discouraged and rarely warranted as they typically involve an attempt to get in the last word,  
10 and, as occurred in this case, result in yet another round of papers filed with the court on the same  
11 subject covered in the original motion.

12                   Having reviewed and considered the matter

13                   **IT IS ORDERED** that Defendant’s Motion to Strike Plaintiff’s Sur-Reply in Opposition  
14 to Defendant’s Motion to Extend Discovery (ECF No. 49) is **GRANTED**.

15                   DATED this 17th day of October, 2016.

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18                   PEGGY A. TEER  
19                   UNITED STATES MAGISTRATE JUDGE  
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